

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:23-cv-00325

Larry Coleman Hicks,
Plaintiff,

v.

Judge K. Nicole Mitchell,
Defendant.

O R D E R

Plaintiff Larry Coleman Hicks, an inmate of the Texas Department of Criminal Justice proceeding pro se, filed this civil action complaining of alleged deprivations of his rights. The sole named defendant is United States Magistrate Judge K. Nicole Mitchell, and the only relief sought by the plaintiff is “put the magistrate in jail.” The case has been referred to United States Magistrate Judge John D. Love.

The magistrate judge entered a report observing that plaintiff has a lengthy history of filing frivolous and malicious lawsuits making vile and untrue accusations against various public officials and stating that “the present case represents a continuation of this practice.” Doc. 3 at 1. A review of the complaint demonstrates the accuracy of this characterization.

On January 14, 2020, this court entered an order directing that the clerk not accept from plaintiff any documents, pleadings, or other correspondence in any lawsuit, new or previously filed which does not bear the signature of a licensed attorney. *Hicks v. Skeen*, No. 6:18-cv-400 (E.D. Tex. Jan. 14, 2020). Because the present lawsuit does not bear the signature of a licensed attorney, the magistrate judge recommended that the complaint be stricken and the lawsuit be dismissed with prejudice.

A copy of this report was mailed to plaintiff at his last known address but no objections have been filed. The Fifth Circuit has explained that where a letter is properly placed in the United

States mail, a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Company of Canada*, 931 F.3d 412, 420–21 (5th Cir. 2019).

When there have been no timely objections to a magistrate judge's report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report, and being satisfied that it contains no clear error, the court accepts its findings and recommendation. Plaintiff's complaint is stricken and the lawsuit is dismissed with prejudice as frivolous and as improperly filed.

So ordered by the court on October 23, 2023.



J. CAMPBELL BARKER
United States District Judge